

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

April 21, 2003

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Davis, Associate Justice; Kolkey, Associate Justice and Facey, bailiff. Calendar called.

C037810 THE PEOPLE v. VIGIL

Cause called. Kyle R. Knapp argued for appellant. David Andrew Eldridge, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:05 a.m., the court recessed. At 10:12 a.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Hull, Associate Justice.

C030744 URCHIN INDUSTRIES OF CALIF., etc., et al. v. CONTRACTORS' STATE LICENSE BOARD et al.

Case continued as per Presiding Justice Scotland.

At 10:12 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Robie, Associate Justice.

C036712 BOEHM & ASSOCIATES v. WORKERS' COMPENSATION APPEALS BOARD et al.

Cause called. Robert Feinglass argued and Nancy Roberts appeared only for appellant. Michel C. LeClerc argued for respondent. Cause submitted.

At 10:55 a.m., the court recessed. At 10:59 a.m., the court reconvened with Raye, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

C039463 BELL et al. v. PARECKI

Cause called. Lawrence N. Hensley argued for appellant. Emily L. Randon argued for respondent. Cause submitted.

At 11:30 a.m., the court recessed. At 2:00 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Hull, Associate Justice.

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I dissent because, in my view, the judgment must be reversed due to prosecutorial misconduct that prejudiced defendant...

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(C038799, con't.)

... So it is in this case. The just conclusion that should be reached is that, in his overzealousness to convict defendant in this close credibility contest between defendant and his daughter, the prosecutor violated well-established rules in a manner so undermining confidence in the verdicts that the judgment should be reversed.

SCOTLAND, P.J.

C040924 THE PEOPLE v. PARDO (Not for Publication)

The judgment is affirmed.

SIMS, J.

We concur: Scotland, P.J.

Robie, J.

C040955 THE PEOPLE v. CANFIELD (Not for Publication)

The judgment is affirmed.

RAYE, J.

We concur: Nicholson, Acting P.J.

Callahan, J.

C039529 FINNEGAN v. FINNEGAN (Not for Publication)

C040049 The judgment is affirmed. Danny Finnegan is awarded his costs on appeal. (Cal Rules of Court, rule 27 (a).)

KOLKEY, J.

We concur: Davis, Acting P.J.

Callahan, J.

C040160 ALPER v. MAHONEY (Not for Publication)

The defendant's motion for judicial notice is granted except for exhibit 3.

The judgment is affirmed.

DAVIS, J.

We concur: Scotland, P.J.

Kolkey, J.

C041273 In re S.B.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. D.B. (Not for Publication)

The orders of the juvenile court are affirmed.

MORRISON, J.

We concur: Scotland. P.J.

Robie, J.

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C041467 UNITED SERVICES AUTOMOBILE ASSOCIATION v. PEGOS

BY THE COURT:

Respondent's petition for rehearing is denied.
SIMS, Acting P.J.

C042668 JOHNSON et al. v. SIERRA TERRA INC., et al.

C043128

BY THE COURT:

The motion of appellants Sierra Terra Inc. et al. for consolidation of the above cases is granted. The cases are ordered consolidated for all further appellate procedures except that they will retain the respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

Appellants Sierra Terra Inc. et al.'s combined opening brief is due on or before June 18, 2003; appellants James Johnson et al.'s opening brief and respondents' brief is due. July 18, 2003, respondents' and appellants' reply brief of Sierra Terra Inc. et al. is due 30 days thereafter; appellants' reply brief of James Johnson et al. is due 20 days thereafter.

SCOTLAND, P.J.

April 22, 2003

Misc. Order 2003-03

By the Court:

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 75, 76, 77 and 78, during the absence of the Presiding Justice from the court on April 25, 2003, through April 30, 2003, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Nicholson, Associate Justice; Raye, Associate Justice; Morrison, Associate Justice and Guzman, bailiff. Calendar called.

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**C038246 FAIR POLITICAL PRACTICES COMMISSION v. CALIFORNIANS AGAINST
CORRUPTION et al.**

Cause called. Bruce Adelstein argued for appellant. Steven Benito Russo argued and Julia A. Bilaver appeared only for respondent. Cause submitted.

At 10:01 a.m., the court recessed. At 10:06 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Raye, Associate Justice.

**C040867 WEST STANISLAUS FIRE PROTECTION DISTRICT v. COUNTY OF
STANISLAUS et al.**

Cause called. Robert D. Pontelle argued for appellant. E. Vernon Seeley argued for respondent. Cause submitted.

At 10:15 a.m., the court recessed. At 10:24 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Kolkey, Associate Justice.

**C037333 SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT v. STATE
WATER RESOURCES CONTROL BOARD et al. and CALIFORNIA
ASSOCIATION OF SANITATION AGENCIES et al. and NATURAL
RESOURCES DEFENSE COUNCIL, INC. et al.**

Cause called. Paul S. Simmons argued and Patricia J. Chen appeared only for plaintiff-appellant. Colin Lennard argued for Intervenor-plaintiffs-appellants: California Association of Sanitation Agencies et al. Marc N. Melnick argued for defendants-respondents. Davis Beckman argued and Anjali Jaiswal appeared only for intervenors-defendants-respondents: Natural Resources Defense Council. Cause submitted.

At 11:37 a.m., the court recessed. At 11:39 a.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Morrison, Associate Justice.

**C041310 SAN JOAQUIN HELICOPTERS v. DEPARTMENT OF FORESTRY et al. and
DYNCORP TECHNICAL SERVICES**

Cause called. Jennifer Dauer McCready argued for appellant. Deborah Wordham, Deputy Attorney General, argued for defendants-respondents. Neil H. O'Donnell argued for RPI-respondent. Cause submitted.

At 12:13 p.m., the court recessed. At 2:02 p.m., the court reconvened with Davis, Associate Justice; Callahan, Associate Justice; and Kolkey, Associate Justice.

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C030120 EDWARDS v. BLUE SHIELD OF CALIFORNIA et al.

Cause called. Christopher H. Whelan argued for appellant. Linda M. Inscoe argued for respondents. Cause submitted.

At 2:37 p.m., the court recessed. At 2:41 p.m., the court reconvened with Scotland, Presiding Justice; Morrison, Associate Justice; and Kolkey, Associate Justice.

C039662 PACIFIC STATE BANK v. GREENE et al.

Cause called. Christopher H. Engh argued for appellant. Arthur A. Small argued for respondent. Cause submitted.

At 3:15 p.m., the court recessed. At 3:19 p.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Morrison, Associate Justice.

C040755 LEIBROCK v. DYDZAK

Cause called. Stephen R. Leibrock, In Pro Per, argued for himself and submitted additional citations. Argument was waived by respondent, Daniel D. Dydzak. Cause submitted.

At 3:20 p.m., the court recessed until 9:30 a.m., Wednesday, April 23, 2003.

C038979 THE PEOPLE v. RAMIREZ-MORALES (Not for Publication)

Defendant's convictions and special findings are affirmed, except that the finding defendant serve a prison term for his conviction for making criminal threats is reversed. The superior court is directed to amend the abstract of judgment to show the sentence is imposed for the section 273a conviction was stayed. The superior court is further directed to prepare an amended abstract of judgment reflecting these changes and to forward a copy thereof to the Director of the Department of Corrections. As modified, the judgment is affirmed.

CALLAHAN, J.

We concur: Scotland, P.J.

Hull, J.

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C042263 THE PEOPLE v. INGRAM
C042264 BY THE COURT:

The motion of appellant for consolidation of the above cases is granted. The cases are order consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

Appellant's combined opening brief is due on or before May 22, 2003.
SCOTLAND, P.J.

C039997 THE PEOPLE v. ORTEGA (Not for Publication)

The jury's true finding under section 12022.95 is stricken. The trial court is ordered to modify the jury verdict and minute order accordingly. As modified, the judgment is affirmed.

CALLAHAN, J.

We concur: Davis, Acting P.J.
Nicholson, J.

April 23, 2003

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Sims, Associate Justice; Morrison, Associate Justice and Guzman, bailiff. Calendar called.

C041482 POWELL v. POWELL

Cause called. Aaron M. Hudson argued for appellant. There was no appearance made on behalf of respondent. Cause submitted.

At 9:32 a.m., the court recessed. At 9:30 a.m., the court reconvened with Sims, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

C041474 CEMENT MASONS HEALTH AND WELFARE, etc., et al. v. STONE

Cause called. Bruce K. Leigh argued for appellants. Daniel E. Wilcoxon argued for respondent. Cause submitted.

At 10:03 a.m., the court recessed. At 10:08 a.m., the court reconvened.

C040280 UNION SAFE DEPOSIT BANK v. EGAN
C040524 EGAN v. SAFE DEPOSIT BANK

Cause called. Jeffrey A. Jaech argued for appellant. Christopher H. Engh argued for respondent. Cause submitted.

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At 10:39 a.m., the court recessed. At 10:42 a.m., the court reconvened with Morrison, Associate Justice; Kolkey, Associate Justice; and Robie, Associate Justice.

C039657 THE PEOPLE v. KONS

Linnea M. Johnson argued for appellant. Angelo S. Edralin, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:13 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Callahan, Associate Justice; and Robie, Associate Justice.

C035814 OPONG-MENSAH v JACKSON et al.

Opong-Mensah, appearing In Pro Per, argued for himself. Warren C. Stacner argued for respondent. Cause submitted.

At 2:16 p.m., the court recessed. At 2:32 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Robie, Associate Justice.

**C041067 ENTERCOM COMMUNICATIONS CORP. v. ROYCE INTERNATIONAL
BROADCASTING CORPORATION et al.**

Cause called. Jeremy B. Rosen argued for appellants. Michael A. Kahn argued and Casey McNamara appeared only for respondent. Cause submitted.

At 3:06 p.m., the court recessed. At 3:10 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Raye, Associate Justice.

C039196 THE PEOPLE v. PIHL

Cause called. Eileen S. Kotler, court appointed counsel, argued for appellant. Laura Wetzel Simpton, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:38 p.m., the court recessed. At 3:45 p.m., the court reconvened with Sims, Associate Justice; Morrison, Associate Justice; and Raye, Associate Justice.

C040424 THE PEOPLE v. EWING

Cause called. Charles M. Bonneau argued for appellant and submitted additional citations. Sharon E. Loughner argued for respondent. Cause submitted.

Court recessed at 4:13 p.m. until Friday, April 25, 2003 at 9:30 a.m.

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- C032896 THE PEOPLE v. TERRY (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Blease, J.
 Davis, J.
- C038321 THE PEOPLE v. JAMES (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We concur: Sims, Acting P.J.
 Kolkey, J.
- C040930 THE PEOPLE v. JOHNSON, JR. (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We concur: Nicholson, Acting P.J.
 Callahan, J.
- C041429 THE PEOPLE v. SPEAR (Not for Publication)**
The judgment is affirmed.
CALLAHAN, J.
We concur: Nicholson, Acting P.J.
 Raye, J.
- C042313 THE PEOPLE v. EDWARDS (Not for Publication)**
The judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect that defendant's conviction is under Vehicle Code section 23153, subdivision (a), and to transmit a certified copy of the amended abstract to the Department of Corrections.
KOLKEY, J.
We concur: Davis, Acting P.J.
 Morrison, J.
- C042675 THE PEOPLE v. DUCHENE (Not for Publication)**
The judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the \$166 booking fee and the \$36 classification fee and should transmit a certified copy of the amended abstract to the Department of Corrections.
KOLKEY, J.
We concur: Davis, Acting P.J.
 Morrison, J.

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C040458 In re ALYSSA C.; THE PEOPLE v. ALYSSA C.

(Not for Publication)

The juvenile court's order directing Alyssa C. to pay \$2,009.93 in restitution to Katherine Skajem is vacated. The juvenile court is directed to enter an order denying any and all restitution in the matter and to so notify the parties.

NICHOLSON, J.

We concur: Blease, Acting P.J.
 Morrison, J.

April 24, 2003

C042156 PENDLETON et al. v. MAXWELL (Not for Publication)

The order extending the close of escrow is affirmed. The plaintiffs shall recover costs on appeal and may move in the trial court for recovery of their legal fees on appeal. (*Milman v. Shukhat* (1994) 22 Cal. App. 4th 538, 546.)

DAVIS, Acting P.J.

We concur: Callahan, J.
 Kolkey J.

C041455 In re VA X. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. TENG X. et al. (Not for Publication)

The finding and order that the permanent plan is a planned permanent living arrangement is stricken. The permanent plans for Mai, Lee, Sherry, Sarah, and Va are long-term foster care. The matter is remanded to the juvenile court with directions to that court to consider ordering sibling visitation in accordance with this opinion.

As modified, the orders of the juvenile court are affirmed.

DAVIS, J.

We concur: Blease, Acting P.J.
 Hull, J.

April 25, 2003

At 9:29 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Callahan, Associate Justice; Robie, Associate Justice and Facey, bailiff. Calendar called.

C040639 PARKLAND HOMES, INC. v. STEAGAL et al.

Cause called. Erin E. Mackey argued for appellant. John D. Fairbrook argued for respondent. Cause submitted.

At 9:40 a.m., the court recessed. At 9:41 a.m., the court reconvened.

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C041136 CALIF. LAW ENFORCEMENT ASSOCIATION v. TALBOT, etc., et al.

Cause called. Louis A. Gonzalez, Jr. argued and Thomas L. Riordan appeared only for appellant. Amanda Uhrhammer argued for respondent. Cause submitted.

At 10:03 a.m., the court recessed. At 10:07 a.m., the court reconvened with Blease, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

C040887 VASQUEZ v. DEPARTMENT OF MOTOR VEHICLES

Cause called. Jesse S. Ortiz argued for appellant. Michael F. Sweeney, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:27 a.m., the court recessed. At 10:30 a.m., the court reconvened with Nicholson, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

C040986 NAMOWICZ, etc., et al. v. WHITTLOCK et al.

Cause called. Gregory D. Rueb argued for appellant. Davis. M. Ingram argued for respondent. Cause submitted.

At 10:47 a.m., the court recessed. At 10:48 a.m., the court reconvened.

C040764 GOMEZ-PETERSON v. GOMEZ

Danielle Gomez-Peterson, In Pro Per, argued for herself as appellant. Peter J. Stubbs argued for respondent. Cause submitted.

Court recessed at 11:13 a.m., until 9:30 a.m., Monday, April 28, 2003.

C039833 THE PEOPLE v. ASHE (Not for Publication)

The judgment (order) is affirmed.

Hull, J.

We concur: Nicholson, Acting P.J.

Raye, J.

C041502 In re GREGORY B. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. KATHY T.

(Not for Publication)

The orders of the juvenile court from which appellant appeals in her appeal filed June 17, 2002, are affirmed. Appellant's appeal from the order denying her petition for modification, filed June 27, 2002, is dismissed as abandoned.

HULL, J.

We concur: Davis, Acting P.J.

Nicholson, J.

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**C036712 BOEHM & ASSOCIATES v. WORKER'S COMPENSATION APPEALS BOARD
AND INTERNATIONAL UNION OF HOTEL EMPLOYEES AND RESTAURANT
EMPLOYEES et al.**

The order of the Board on reconsideration is annulled. The matter is remanded to the Board for further proceedings consistent with the views expressed in this opinion. Petitioner shall receive its costs of this proceeding.

(CERTIFIED FOR PUBLICATION)

HULL, J.

We concur: Scotland, P.J.

Robie, J.

C042668 JOHNSON et al. v. SIERRA TERRA, INC., et al.

C043128 JOHNSON et al. v. SIERRA TERRA, INC., et al.

BY THE COURT:

The motion of appellants Sierra Terra, Inc., et al. for consolidation of the above cases is granted. The cases are order consolidated for all further appellate procedures except that they will retain their respective case numbers. Whenever documents are submitted for filing by the parties, an original must be presented for each case number; however, if copies of documents are required pursuant to the California Rules of Court, the parties need only submit a maximum of four. The cases will be considered for decision together.

Appellants James H. Johnson et al.'s combined opening brief is due on or before July 18, 2003; appellants Sierra Terra, Inc. et al.'s opening brief and respondents' brief is due 30 days thereafter; respondents' and appellants' reply brief of James H. Johnson et al. is due 30 days thereafter; appellants' reply brief of Sierra Terra Inc., et al. is due 20 days thereafter. The parties may stipulate to a briefing schedule.

BLEASE, Acting P.J.